

POLICY STATEMENT

City of Lincoln Program for Payment of Arterial Street Impact Fee to Promote Economic Development

Section 1. Purpose of Policy.

In order to promote the economic development of the of the City of Lincoln, the City will pay on behalf of employers who are engaged in businesses who incur an Arterial Street Impact Fee as a direct result of growth development and which meet the required program qualifications all or a portion of the Arterial Street Impact Fees imposed on such development.

Section 2. Definitions.

(1) **Base year** shall mean the year immediately preceding the year during which the application for payment was submitted;

(2) **Base-year employee** shall mean any individual who was employed in Lincoln, Nebraska and subject to the Nebraska income tax on compensation received from the business or its predecessor(s) during the base year and who is employed at the Lincoln, Nebraska Project;

(3) **Equivalent employees** shall mean the number of employees computed by dividing the total hours paid in a year by the product of forty times the number of weeks in a year;

(4) **Lincoln, Nebraska employee** shall mean an individual who is either a resident or partial-year resident of Lincoln, Nebraska employed at the Lincoln, Nebraska Project;

(5) **Lincoln, Nebraska Project** shall mean the construction of a new building or an expansion of an existing building in the City of Lincoln by a business which results in the employment of new Lincoln, Nebraska employees by the business.

(6) **Median wage** shall mean 110% of the Lancaster County Average Wage as determined by the U.S. Department of Commerce, Bureau of Economic Analysis for the calendar year of the application. The required median wage to qualify under this program will be annually adjusted for each year thereafter.

(7) **Number of new employees** shall mean the excess of the number of equivalent employees employed at the Lincoln, Nebraska Project during the year over the number of equivalent employees employed at the Lincoln, Nebraska Project during the base year.

(8) **Qualified employee of leasing company.** An employee of an employee leasing company shall be considered to be an employee of the client-lessee if the employee performs services for the client-lessee.

(9) **Wages** shall mean gross wages before benefits subject to withholding for federal income tax purposes;

(10) **Year** shall mean the taxable year of the business.

Section 3. Program Qualifications.

(1) An application for “City of Lincoln Payment of Arterial Street Impact Fee to Promote Economic Development” (hereinafter “Application”) shall be filed with the Department of Building & Safety at the same time as the applicant applies for a building permit for its Lincoln, Nebraska Project.

(2) The applicant shall pay a non-refundable application fee of \$300.00, which shall be deposited in the Administrative Fee Fund.

(3) Notwithstanding the filing of the Application, the applicant shall pay the required Arterial Street Impact Fee prior to issuance of the building permit.

(4) The applicant shall submit with its Application documentation and evidence which shows that (i) the business will derive, directly or indirectly, 50% or more of its revenue from outside of Lancaster County, Nebraska; and (ii) the median wage for its new employees will be equal to or in excess of 110% of the Lancaster County average wage.

(5) The applicant shall complete construction of its Lincoln, Nebraska Project and receive a signed certificate of occupancy from the Department of Building and Safety within 18 months following issuance of the building permit.

(6) Following the date of issuance of the certificate of occupancy, the applicant shall have two years to derive 50% or more of its revenue from outside of Lancaster County and meet the required median wage for new employees. Upon attainment of said thresholds, the applicant must maintain those levels for three consecutive years.

The following transactions or activities are not eligible for the City of Lincoln’s payment of Arterial Street Impact Fees under this program:

(1) The acquisition of a business which is continued by the purchaser, and which was operated in the City of Lincoln at any time during the three hundred sixty-six days prior to the date of application, or the date of acquisition, whichever is later. All employees of the business during such three hundred sixty-six days shall be considered base-year employees.

(2) The moving of a business, which was operated in the City of Lincoln at any time during the three hundred sixty-six days prior to the date of application from one location in the City of Lincoln to another. All employees of the business during such three hundred sixty-six days shall be considered base-year employees;

Section 4. Impact Fee Administrator Review of Application.

The Impact Fee Administrator shall review the Application and the materials submitted and make a determination as to whether the proposed Lincoln, Nebraska Project is consistent with the purposes of this program. The Application shall not be approved until the applicant has submitted a complete Application, paid the application fee, and filed with the Impact Fee Administrator a copy of the signed certificate of occupancy from the Department of Building and Safety.

Section 5. Reimbursement of Impact Fee Previously Paid.

Upon the Impact Fee Administrator approving the Application, the City of Lincoln from its General Fund shall pay on the eligible business' behalf all or a portion of the required Arterial Street Impact Fee for the Lincoln, Nebraska Project in question. The amount of the fee paid shall be the lesser of the Arterial Street Impact Fee or two times the "free cash flow" to the general fund as calculated by use of the Impact Fee Payment Formula attached hereto marked as Exhibit A. Upon the City of Lincoln making said payment, the business shall be entitled to reimbursement of the Arterial Street Impact Fee the business previously paid as a condition of issuance of the building permit in the same amount as that paid by the City. However, said reimbursement shall be conditioned upon the owners agreeing upon demand of the City to repay the reimbursement, with interest at the rate earned by the City on its impact fees, in the event the business fails to obtain and maintain the thresholds provided in Section 3 above. The owners' obligation to repay the reimbursement shall be guaranteed by the owners furnishing the City with a bond, escrow, or security agreement approved by the City Law Department in the amount of the reimbursement. Approved Applications shall be paid in the order in which they were first allowed. Any and all approved payments of Arterial Street Impact Fees are contingent upon the availability of appropriated funds. Approved Applications for the payment of Arterial Street Impact Fees on behalf of the eligible business which exceed the line item budget for said payment in the General Fund will not be paid unless specifically authorized by the City Council.

Section 6. Collection of Reimbursement.

(1) If the business fails to meet the required thresholds that 50% or more of its revenue be derived from outside of Lancaster County and that its median wage for new employees meet or exceed 110% of the Lancaster County average wage by the end of the second year and/or fails to maintain said thresholds for three consecutive years thereafter, all of the reimbursement previously paid shall be due and owing and the business shall repay the City of Lincoln the full amount of said reimbursement. If the business fails to make said payment within thirty days following the date the business is notified to pay the same, the City may call or sue upon the bond, escrow, or security agreement.

(2) The repayment required by this section shall be forgiven if the failure to maintain the required levels of employment was caused by an act of God or national emergency.

Section 7. Reimbursement; Transfer; When; Effect.

The reimbursement payment to the business following the City's payment of the business's Arterial Street Impact Fee shall not be transferable to another business except in the following situations:

(1) The reimbursement payment may be transferred to an acquiring business when ownership of the Lincoln, Nebraska Project, covered by an approved Application, is transferred in its entirety by sale or lease to another business or in an acquisition of assets qualifying under section 381 of the Internal Revenue Code of 1986.

(2) If a sole proprietor of a business operating under an approved Application dies and there is a reimbursement unpaid, the Impact Fee Administrator shall distribute the reimbursement to the sole proprietor's heir.

Section 8. No Interest Allowed on Reimbursement.

Interest shall not be allowed on any reimbursement paid.

Section 9. Speculative Buildings.

(1) Notwithstanding any provision of this Policy to the contrary, a business that applies for a building permit to construct a new building for sale as a speculative industrial building may apply for a deferral of filing an Application conditioned upon the sale of the building and transfer of the business's reimbursement rights to a qualified business. Said sale and transfer must occur not more than three years following the date that the building permit was issued for the speculative building. Upon completion of the sale and transfer, the qualified business shall have six months in which to submit an Application and receive final approval of the Application. Thereafter, qualification for the City of Lincoln payment of Arterial Street Impact Fees and reimbursement of impact fees previously paid shall be based upon satisfactory completion of the project as provided in Sections 1 through 8 above.

(2) A business that applies for a building permit to construct a new building for lease as a speculative industrial building may apply for a deferral of filing an Application conditioned upon the lease of the building; transfer of the business' reimbursement rights and a signed disclosure agreement by the lessee. Said lease agreement must be consummated not more than three years following the date the building permit was issued for the speculative building. Upon execution of the lease agreement, the lessee shall have six months to submit an Application and receive final approval of said Application. Thereafter, qualification for the City of Lincoln's payment of Arterial Street Impact Fees and reimbursement of impact fees previously paid shall be based upon satisfactory completion of the project as provided in Sections 1 through 8 above.

Section 10. Annual Report; Contents.

(1) The Impact Fee Administrator shall submit an annual report to the City Council no later than November 15 of each year.

(2) The report shall list:

- (a) The Applications which have been approved during the previous fiscal year,
- (b) The approved projects which are still in effect,
- (c) The name of each business operating an approved project,
- (d) The location of each approved project,
- (e) The number of jobs to be created,
- (f) The total number of qualified businesses, and
- (g) The reimbursements paid out and subject to the bond, escrow or security agreement.

(3) No information shall be provided in the report that is protected by state or federal confidentiality laws.

Section 11. Impact Fee Administrator; Adopt Rules and Regulations.

The Impact Fee Administrator shall adopt and promulgate all rules and regulations necessary to carry out the purposes of the reimbursement program.

Impact Fee Payment Formula

Exhibit A

A business which proves that new employees added as a result of an eligible development will meet a median wage requirement that is 110% of the county average wage or greater, and which proves that it is either a service or manufacturing company that derives 50% or more of its revenue (from the proposed Lincoln, Nebraska Project) from outside the county is eligible for City payment of all or a portion of the Lincoln, Nebraska Project Arterial Street Impact Fee.

The maximum amount of the City payment is the lesser of:

- (1) 100% of the Arterial Street Impact Fee; or
- (2) The amount determined by the below formula that nets the estimated new sales and property tax revenue from both business and individuals, less the general funds costs to provide service to those new citizens.

If this formula yields a positive number then the business is eligible, except as provided above, to a payment of two times said amount.

Or expressed as a shortened formula:

The lesser of either

(ASIF)

Or

$(STI + PTB + STB + PTI - COS) \text{ times } 2$

Where:

Sales Tax Revenue from Individuals (STI) =

$((MW \times NH \times CSTR \times AWESST \times (1 - PCPOC) \times AECL) \times ME)$

Property tax from Business (PTB) =

$(PV \times CPTR \times ME)$

Sales Tax Revenue from new business (STB) =

$GRS \times CESES \times CSTR \times ME$ (if business is a service company); or

$GRM \times CESEM \times CSTR \times ME$ (if business is a manufacturing company)

New Residential Property Tax Revenue (PTI) =

$CIM \times NH \times NHM \times CPTR$

Cost To Provide Service (COS) =

$CIM \times NCP \times GFMC$

The foregoing formula is based on a model created by the Federal Reserve and is modified to focus on the input output costs associated with the city of Lincoln's "General Fund" account. The payment of Arterial Street Impact Fees is paid for out of the city's "General Fund" and the formula cost benefit analysis pays Arterial Street Impact Fees at an amount equal to the lesser of the entire Arterial Street Impact Fee or two times the cost benefit analysis as determined by the formula.

Terms.

Wage shall mean gross wages before benefits.

Median Wage (MW) shall mean the middle wage value in a distribution of wages.

New Hires (NH) shall mean the excess of the number of equivalent employees employed at the Lincoln, Nebraska Project during the year over the number of equivalent employees employed at the Lincoln, Nebraska Project during the base year.

Average Wage for Lancaster County (AW) shall mean the statistical number that is obtained from the Bureau of Economic Analysis at the U.S. Department of Commerce. There address is: <http://www.bea.gov/beahome.html>

Target Minimum Wage (TWB) shall mean a median wage (MW) that be greater than 110% of the AW.

Primary Employment (PE) shall mean the primary employment of a business determined by end product sales or services where 50% of end product sales or service occur outside the County of Lancaster County.

Property Value (PV) shall mean the assessed property value of the target business (or addition).

Type of Business shall mean a determination by the City as to whether the business is a "service" or a "manufacturing" business.

Arterial Street Impact Fee (ASIF) shall mean the amount of money that the project had to pay at the point of permitting for arterial street impact fees.

City Property Tax Rate (CPTR) shall mean the current mill rate for the city's property tax.

City Sales Tax Rate (CSTR) shall mean the sales tax rate that is charge by the city of Lincoln.

New Housing Mean (NHM) shall mean the value for new housing in the City of Lincoln, Nebraska.

Estimated marginal costs per person to the general fund from in migration (EMC) shall mean the marginal cost of adding people to the city's general fund.

Sales tax revenue (STR) shall mean the revenue generated from sales tax using the CSTR.

Property Tax Revenue (PTR) shall mean the revenue generated from property taxes using the (CPTR).

Average wage expenditure subject to sales tax (AWESST) shall mean the percentage amount of consumer purchases that are subject to sales taxes. This number is obtained from the Federal Reserve model.

Percent of consumer purchases outside county (PCPOC) shall mean the amount of purchases that consumers make outside the county. This number is obtained from the Federal Reserve model.

Amount of expenditures that occur in the city of Lincoln (AECL) shall mean the percentage amount of purchases that occur within the city of Lincoln. This number is obtained from the Federal Reserve model.

Multiplier effect (ME) shall mean the multiplier effect for city population as determined by the Federal Reserve.

Multiplier effect for business property (MEP) shall mean the multiplier effect for property valuations as determined by the Federal Reserve.

Gross Revenue - Service (GRS) shall mean the estimated gross revenue for a service business as determined by the Federal Reserve.

Gross Revenue - Manufacturing (GRM) shall mean the estimated gross revenue for a service business as determined by the Federal Reserve.

Corporate revenue expenditures subject to local sales taxes – Service (CESES) shall mean the estimated amount of corporate expenditures subject to local sales tax by the target business.

Corporate revenue expenditures subject to local sales taxes – Manufacturing (CESEM) shall mean the estimated amount of corporate expenditures subject to local sales tax by the target business.

City estimated in migration (CIM) shall mean the estimated number of people that will move into the local market for each new job (expressed as a percent of NH shall mean obtained from the Federal Reserve and is Lancaster County specific.

Number of new citizens (NCP) shall mean the CIM number multiplied times three to come up with total number new citizens that move into Lincoln.

General Fund Marginal Cost (GFMC) shall mean the marginal cost to the General Fund to provide service to new citizens based upon the current city budget. The current 2003/04 GFMC is \$400 per person.

CITY OF LINCOLN, NEBRASKA
SUMMARY OF STAFFING AND OPERATING EXPENDITURES BY FUND AND DEPARTMENT
AUTHORIZED POSITIONS OPERATING BUDGET
GENERAL FUND:

| | 2003-2004 | Variable Cost per person |
|------------------------------|--------------------|--------------------------|
| CITY COUNCIL | 217,418 | n/a |
| FINANCE | 2,014,932 | n/a |
| FIRE | 17,520,780 | 76.18 |
| LAW | 1,875,483 | 8.15 |
| MAYOR'S DEPARTMENT | | |
| Mayor's Office | 594,204 | n/a |
| Affirmative Action | 67,732 | n/a |
| Citizens' Info. Center | 269,937 | n/a |
| Human Rights | 173,434 | n/a |
| Women's Commission | 145,205 | n/a |
| MISCELLANEOUS BUDGETS | | |
| Contingency | 450,000 | n/a |
| Interfund Transfers | 15,505,995 | n/a |
| General Expense | 15,866,523 | 68.98 |
| Special | 109,725 | 0.48 |
| Street Lights | 3,482,600 | 15.14 |
| PARKS AND RECREATION | 10,316,701 | 44.86 |
| PERSONNEL | 780,132 | 3.39 |
| PLANNING | 1,517,861 | 6.60 |
| POLICE | 26,118,347 | 113.56 |
| PUBLIC WORKS/UTILITIES | 3,700,619 | 16.09 |
| URBAN DEVELOPMENT | 685,217 | 2.98 |
| TOTAL - GENERAL FUND | 101,412,845 | 356.41 |
| OTHER TAX FUNDS: | | |
| LIBRARY | 7,064,953 | 30.72 |
| POLICE & FIRE PENSION | 1,940,867 | 8.44 |
| BOND & INTEREST REDEMPTION | 5,486,649 | n/a |
| SOCIAL SECURITY | 1,830,143 | n/a |
| UNEMPLOYMENT COMP. | 95,000 | n/a |
| TOTAL - OTHER TAX FUNDS | 16,417,612 | 39.16 |
| TOTAL - ALL TAX FUNDS | 117,830,457 | 395.56 |